IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1484 OF 2002.
IN
SUIT NO. 1687 OF 2002.

Hansa @ Kalpana Kantilal
Tejukaya & Anr. ..Plaintiffs.

VERSUS.

The State of Maharashtra & Ors. ..Defendants.

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S. M. Kazi for the plaintiff.

N. Pandit, AGP i/b by the Government Pleader for the defendant.

Coram: V.M.KANADE, J.
Date: 19th August, 2004.

P.C.

1. Heard the learned counsel appearing on behalf of the defendant-State and the learned counsel appearing on behalf of the plaintiff. The defendant has taken out this notice of motion for seeking extension of time granted by this court for depositing the arrears of rent as per the direction given by this court. The plaintiff has filed the suit for possession of the premises. In the said suit, a notice of motion was taken out by the plaintiff seeking interim relief that the defendant should be restrained by an order of injunction from creating any third party rights and from parting with the possession. The statement was made by the

Government pleader that the defendant shall not dispose of or alienate the suit property. The statement was accepted. Finally the said notice of motion was heard and disposed of on 17th March 2004 with a direction that the defendant should pay rent arrears within a period of 12 weeks from 17.3.2004. The said period expired on 7th June 2004. An application was made by filing a preceapi before the learned Single Judge (Coram: J.N.Patel, J.) seeking extension of time. The learned Single Judge, however, rejected the said application on the ground that no good and sufficient reason has been put forth by the State to seek further extension of time. Thereafter, the present notice of motion has been filed. In the affidavit in support of the notice of motion, the government has given reasons why the said amount could not be deposited within 12 weeks. I am of the view that in the said affidavit in support, in paragraph No.5, sufficient reasons have been given why the arrears of rent could not be deposited within 12 weeks. The earlier order which was passed on 12th July 2004 was passed on a preceapi and the learned Single judge has come to a conclusion that no good and sufficient reason has been put forth by the State to seek further extension of time. The defendants have now taken out this notice of motion, and in their affidavit in support

they have given sufficient reasons why the said amount could not be deposited. Under these circumstances, I am of the view that the order which was passed by the learned Single Judge on 12th July 2004 will not come in the way of this court extending the time for depositing the arrears of rent. The plaintiff has now taken out the notice of motion for striking of the defence. The dispute between the parties pertains to the suit premises which was given to the defendants. The contention of the defendants is that the premises was given on tenancy basis. If extension is not granted, in all probability, the defence of the defendants will be struck of. The ends of justice would be met if further extension of two weeks is granted. The period of 12 weeks granted on 17th March 2004 is extended upto 8th September 2004. It is made clear tht no further extension would be granted.

. All concerned to act on an ordinary copy of this order duly authenticated by the Associate of this Court.

(V.M.KANADE,J.)

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